UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/710,856	08/08/2004	David Bogart Dort	VRBA.P016.A	7980

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EXAMINER
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ART UNIT	PAPER NUMBER
3694	

NOTIFICATION DATE	DELIVERY MODE
10/21/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DDORT@DORT.COM

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 July 2009</u>.

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5 and 7-9* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5 and 7-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

  1.☐ Certified copies of the priority documents have been received.

  2.☐ Certified copies of the priority documents have been received in Application No. _____.

  3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
  Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
  Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to Applicant's filing of 7/22/2009. Claims 1-2, 5, and 7-

9 are pending and examined below. Claims 1-2, 5, 7 and 9 are amended.

Response to Arguments

2.   Applicant's arguments filed 7/22/2009 have been fully considered but they are

not persuasive.

The objection to the specification is sustained till the applicant submits the

corrections.

The applicant argues that the cited prior art fail to teach currency-free, the

examiner respectfully disagrees because Perkes teaches use earned credits or

coupons for exchange (¶ 34), in which the earned credits or coupons are not currency.

In response to applicant's arguments, the recitation "investment pool" has not

been given patentable weight because the recitation occurs in the preamble. A

preamble is generally not accorded any patentable weight where it merely recites the

purpose of a process or the intended use of a structure, and where the body of the

claim does not depend on the preamble for completeness but, instead, the process

steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190

USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481

(CCPA 1951).

Regarding to claim 9, the applicant argues that Perkes fails to teach investment

pools of non-currency asset for trading with other non-currency asset. Perkes teaches

use earned credits or coupons to trade for contents (¶ 34), and both the earned

credits/coupons and contents are non-currency based assets. The limitation

"investment pools" is not claimed by the applicant in claim 9. Thus, Perkes teaches the

limitations in claim 9.

Specification

3.   35 U.S.C. 112, first paragraph, requires the specification to be written in "full,

clear, concise, and exact terms." The specification is replete with terms which are not

clear, concise and exact. The specification should be revised carefully in order to

comply with 35 U.S.C. 112, first paragraph. Examples of some unclear, inexact or

verbose terms used in the specification are: par 70 "For example, a broker is looking to

exchange commodity one for commodity to blood is on for many are with you to be in

possession of commodity to broker who can enter the transactions space either through

subscription or access membership enters the network looking for a seller of commodity

to." , par 71 "One of the advantages of the present invention, in addition to being

independent of currency fluctuations and political upheavals, is that taxation is difficult to

ascertain for exchanges of commodities, and they bought a possible science, that do

not easily translate into dollar or a correlated value.", par 72 "FIGS. 16-19 relate

specifically to the second contemplated mode or embodiment of the invention in which

the VPE may include one or more other portions that act as a personal asset investment

attraction (IA). An individual may wish to have virtual personal economies configured for

different scenarios, including allow others to "invest" or tie their valuable assets to their

(pledge for exchange, a guarantee bank of assets, etc)"

Claim Objections

4.   Claims 7 and 9 are objected to because of the following informalities:

     a.   In line 1 of claim 7, a number "5" should be inserted after the word "claim".

For examination purposes, it is assumed that claim 7 is depend from claim 5.

     b.   In line 3 of claim 9, the word "deice" should be "device".

     c.   In line 9 of claim 9, a semi-colon should be inserted after the word

"currency".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

6.   Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

     Claim 1 recites the limitation "said exchange module" in line 14. There is

insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public
> use or on sale in this country, more than one year prior to the date of application for patent in the United
> States.

8.   Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Perkes et al.,

US 2002/0052788 A1.

As to claim 9, Perkes teaches an improved investment system including:

- a computational device (i.e. Appliances, see ¶ 25, 33) linked to a network (i.e. computer network, see ¶ 25) through set of executable instructions on said computational device linked to a network that implement a screening system (i.e. Appliance in combination with program software, see ¶ 33);

- electronic data storage configured to store first data that represents a first assets (i.e. credits or coupons, see ¶ 24- 25; *note that the database stores coupons which fairly suggest non-currency assets in so far as they embody value*);

- said executable instructions on said computational device including a filter that verifies that said first asset does not include any relationship to currency (¶ 25, 34; *this limitation corresponds to the server communicate to the plurality of computer devices to collect and process the non-currency based credit/coupon earned*);

- a verification system with instructions executed on said computational device that is configured to verify the existence and identification of said first assets represented by said first data after said executable instructions have verified that said first asset does not include any relationship to currency (i.e. Program Sponsor's server, see ¶ 42; *note the server stores the balance of coupons*);

- wherein verification instructions executed on said computational device loads said first data representational of said first assets in response to a request received over said network and through said screening system (i.e. appliance

in combination with program software loads coupon balance for display on

status bar, see ¶ 33-34) and correlates said first data representational of first

asset to a set of second data that is representational of a second non-

currency assets and said verification instructions executed on said

computational device confirms that both said sets of data are properly

correlated to said respective assets (i.e. the coupon cost relates the coupons

to the pay-per-view content, see ¶ 34).

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   Claims 2, 5 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Perkes in view of Official Notice.

As to claim 2, Perkes teaches a method for generating an investment pool

comprising the steps of:

- cataloging a first set of one or more assets and configuring said catalog of

    assets into electronic form (i.e. cataloging coupons earned in Sponsor's

    database, see ¶ 25; *note that coupon's fairly suggest assets in so far as they*

    embody value), said electronic form including electronic representation on

    one or more networked computational devices (¶ 34), said one or more

      networked computational devices including secure data storage (i.e. the
information stored is password protected, see ¶ 7);

- verifying through a set of executable instructions one or more said
  computational devices that said catalog of asset is not currency (¶ 25, 34; *this
  limitation corresponds to the server communicate to the plurality of computer
  devices to collect and process the non-currency based credit/coupon earned*);

- allowing through a set of executable instructions on said one of more
  networked computational devices for said electronic first asset set catalog to
  be inspected over a network (i.e. displaying current amount of coupons in
  status bar, see ¶ 34);

- when selected by an outside source connected to said one or more
  networked computational devices, executing instructions on said first one or
  more networked computational devices for linking a second set of assets (i.e.
  pay-per-view content) represented in electronic form to said first set and
  verifying that said second set of assets represented in electronic form is not
  currency, such that: the owner of said second set of assets has correlated the
  value of said second set of assets to said first set of assets with a
  normalization constant (¶ 25, 34; *note that participating retailer sets cost of
  viewing pay-per-view content*), wherein any number of assets may be added
  to correlated to said first said of assets, and whereby said first said of assets
  has a non-currency investment value (¶ 34; *accumulating credits or coupons*).

Perkes does not specifically teach the one or more networked computational device including removable data storage. The examiner takes Official Notice it is well known in the art that a computer device has removable data storage. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the computational device in Perkes' teaching to include removable data storage so that the information stored on the storage can be portably carried.

As to claim 5, Perkes teaches the step of executing instructions on said first or more networked computational devices for correlating said first set of assets and said second set of assets to a reference value (¶ 34; *note that the content is mapped to the coupon is so far as a credit/coupon cost for the viewing of the content is maintained*).

As to claim 7, Perkes teaches further including the step of executing instructions on an outside networked computational devices for correlating said first set of asset and said second set of assets to a reference value (¶ 25).

As to claim 8, Perkes teaches wherein said reference value is not located on the same host system that includes access to said second set of assets. (¶ 25; *note that both a single server and multiple servers are envisioned*).

11.   Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable Perkes in view of Paul, US Patent 7,104,443 B1.

As to claim 1, Perkes teaches a system implemented by one or more computational devices for conducting a securitized transaction between a seller party and a purchase party over a network comprising:

- a data storage device (i.e. database), said data storage device including electronic representations of at least one set of owned assets (i.e. digital coupons, pay-per-view content), wherein said at least one set of owned assets includes assets other than currency (see ¶ 6, 25, and 34);

- a module for verifying that said at least one set of owned assets are other than a currency ((¶ 25, 34; *this limitation corresponds to the server communicate to the plurality of computer devices to collect and process the non-currency based credit/coupon earned*);

- a module executing a set of instructions to map an outside asset or commodity (i.e. content) for sale, to said at least one set of owned assets (see ¶ 34; *note that the content is mapped to the coupon is so far as a credit/coupon cost for the viewing of the content is maintained*);

- an operative connection (i.e. Internet, see ¶ 25) to both a first electronic agent looking to dispose of said outside asset (seller) (i.e. participating retailer appliance, see ¶ 25) and

Perkes does not explicitly teach:

- a second electronic agent looking to secure said outside asset or commodity (securitor) in exchange for a commodity other than currency, said exchange module capable of securing a transaction of said outside asset or commodity for sale;

- said securing at least accomplished by providing at least a portion of said at least one set of owned assets as security for said exchange, wherein

said exchange module obtains approval from said second electronic agent

via said network to use said at least one set of owned assets as security

for said exchange, before said exchange occurs.

Paul teaches:

- a second electronic agent looking to secure said outside asset or

  commodity in exchange for commodity other than currency, said

  exchange module capable of securing a transaction of said outside

  asset or commodity for sale (see col 4, lines 20-30),

- said securing at least accomplished by providing at least a portion of

  said at least one set of owned assets as security for said exchange

  (see col 4, lines 20-30; *note that the guarantor provides a payment*

  guarantee, thus fairly suggesting it ability to stand in for the buyer and

  provide the portion of owned assets that the buyer would have

  otherwise paid), wherein said exchange module obtains approval from

  said second electronic agent via said network to use said at least one

  set of owned assets as security for said exchange, before said

  exchange occurs (see col 6, lines 20-28; *note that the guarantor may*

  be responsible for transaction approval).

It would have been obvious to one having ordinary skill in the art at the time of

Applicant's invention to have provided Perkes with the guarantor feature of Paul in order

to have provided a payment guarantee to merchants on executed transaction in

exchange for monetary considerations as taught explicitly by Paul (see col 4, lines 20-30).

Conclusion

12.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Inquire

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Cheung whose telephone number is (571)-272-6705. The examiner can normally be reached on Monday – Thursday from 10:00 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (571) 272-6712.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

The fax phone numbers for the organization where this application or

proceedings is assigned are as follows:

(571) 273-8300   (Official Communications; including After Final

Communications labeled "BOX AF")

(571) 273-6705   (Draft Communications)

/Mary Cheung/
Primary Examiner, Art Unit 3694
October 15, 2009